

HOUSE No. 1044

By Mr. Nangle of Lowell, petition of David M. Nangle relative to clarifying certain banking laws. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT CLARIFYING CERTAIN BANKING LAWS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 11 of Chapter 170 of the General Laws, as
2 mot recently amended by Chapter 221 of the Acts of 2006, is hereby
3 further amended by striking out the second paragraph and inserting
4 in place thereof the following paragraph:

5 The security committee shall perform such other duties as may be
6 requested of them by law, and shall exercise such other powers as
7 may be delegated to them by the board of directors. Whenever loans
8 are made and completed pursuant to power delegated by the board of
9 directors, a report including a list of all such loans shall be submitted
10 by the president or treasurer to the directors at their next monthly
11 meeting in such form as the directors may require and such report
12 and any action taken by the board thereon, shall be made part of the
13 records of such meeting. At each meeting of the directors, the presi-
14 dent, treasurer or the security committee shall submit a report con-
15 sisting of a detailed written statement containing the following
16 information for the period since the last regular meeting of the direc-
17 tors, such report to be filed with the records of the meeting and shall
18 be retained for a period of 6 years from the date of the meeting; such
19 report shall cover the following transactions:

20 (1) changes in reserve or contingency accounts;
21 (2) lists of the following loans, setting forth the total liabilities of
22 the borrower to the corporation, both secured and unsecured:
23 (i) loans in excess of \$50,000 each, overdue for more than 30
24 days, other than real estate mortgage loans;

25 (ii) real estate mortgage loans on which interest is more than 6
26 months in arrears;

27 (iii) all loans secured and unsecured, and discounts of any bor-
28 rrower including both direct and indirect liabilities made during the
29 period.

30 Upon application in writing by any such corporation the commis-
31 sioner may waive or modify the information in clauses (1) and (2) to
32 be included in such report.

1 SECTION 2. Section 14 of Chapter 170 of the General Laws as
2 appearing in the 2004 Official Edition is hereby amended striking
3 out said section and replace it with the following new section.

4 Section 14. The commissioner shall have the same powers and
5 duties in respect to co-operative banks which he has in respect to
6 savings banks. At least once during each twelve months following
7 their election, and more often if required by the commissioner, the
8 audit committee, referred to in section eleven, shall have an audit
9 made of the balance sheet of the corporation and such other financial
10 statements as it may prescribe.

11 The audit shall be made by an independent certified public
12 accountant as set forth in the last paragraph of section thirty-three of
13 chapter thirteen in accordance with generally accepted auditing stan-
14 dards and in such form and manner and at such time within said
15 twelve months as the audit committee may prescribe. Within thirty
16 days after its election, the audit committee shall appoint an accoun-
17 tant and written notice thereof shall be given to the commissioner.

18 The accountant shall report in writing to the audit committee the
19 results of the audit. At the next meeting of the directors thereafter,
20 the audit committee shall render a report, which shall be read and be
21 signed by the committee, stating the nature, extent and results of the
22 audit and whether it accepts the accountant's report.

23 The audit committee shall file with the commissioner a copy of
24 the accountant's report within thirty days after its receipt and main-
25 tain another copy with the records of the corporation. If the audit
26 committee fails to have an audit as herein provided, the commis-
27 sioner shall have an audit made by an independent certified public
28 accountant as set forth in the last paragraph of section thirty-three of
29 chapter thirteen in such form and manner as the commissioner may
30 prescribe, and the expense thereof shall be paid by the corporation.

1 SECTION 3. Section 16 of Chapter 172 of the General Laws, as
2 most recently amended by Chapter 221 of the Acts of 2006, is
3 hereby amended by striking out said section and inserting in place
4 thereof the following new section:

5 Section 16. The board of directors shall meet at intervals of not
6 less than quarterly; but, upon application in writing by the corpora-
7 tion, the commissioner may waive or modify this requirement.
8 Unless the articles of incorporation or the by-laws otherwise pro-
9 vide, members of the board of trustees or any committee designated
10 thereby may participate in a meeting of such board or committee by
11 means of a conference telephone or similar communications equip-
12 ment by means of which all persons participating in the meeting may
13 simultaneously hear each other, and participation by such means
14 shall constitute presence in person at a meeting. Members may
15 transmit any written authorizations that may be required during the
16 meeting by electronic facsimile or other commercially acceptable
17 transmission. At intervals of not more than quarterly, the treasurer or
18 any other officer designated by the board of directors shall submit to
19 a meeting of the board of directors a written report, over his signa-
20 ture, for the period running from the closing date of the last report to
21 a date not more than 18 days prior to the date of the meeting at
22 which the report is submitted. The report shall be filed with the
23 records of the meeting and shall be retained for a period of 6 years
24 from the date of the meeting. The report shall provide a summary of
25 the following transactions:

26 (1) changes in investments;

27 (2) changes in reserve or contingency accounts;

28 (3) lists of the following loans, setting forth total liabilities of the
29 borrower to the corporations, both secured and unsecured:—

30 (i) loans in excess of \$50,000 each, overdue for more than 30
31 days, other than real estate mortgage loans;

32 (ii) real estate mortgage loans on which interest is more than 6
33 months in arrears;

34 (iii) real estate mortgage loans concerning which any tax upon the
35 underlying security has been paid and not repaid to the corporations;

36 (iv) all loans secured and unsecured, and discounts of any bor-
37 rower including both direct and indirect liabilities made during the
38 period which brings aggregate liabilities of such borrower to an
39 amount in excess of \$100,000, with a notation of any line of credit

40 possessed by the borrower, but, for banks with total assets in excess
41 of \$1,000,000,000 as of the most recent call report, the amount of
42 aggregate liabilities outstanding to a single borrower shall be
43 \$250,000.

44 Upon application in writing by any such corporation the commis-
45 sioner in his discretion may waive or modify the list of transactions
46 to be included in such report.